



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

ment is annexed to the substance of the remainder and is personal to the remainderman, the remainder is contingent until the time set for distribution, applies to remainders to a class. *Thomas v. Thomas*, 247 Ill. 543.

SALES—RESCISSION OF CONTRACT BECAUSE OF FAILURE OF SELLER TO FULFILL WARRANTY.—The parties entered into a contract under which the defendant was to furnish and install two gas engines of 150 brake horsepower each. Relying on the defendant's promise that the engines would be of this power, the plaintiff made a deposit. The engines the defendant had built according to the plaintiff's plans in fact tested only 140 horse-power. Because of this discrepancy in their capacity the plaintiff refused to receive the engines at the freight house. He sued to recover his deposit. In a cross-complaint the defendant alleged that before he shipped the engines he told the plaintiff of the shortage of their capacity, but that the plaintiff said for him to ship them anyway. What finding of fact was made as to this allegation does not appear in the report. Judgment was given for the plaintiff on the ground of failure of consideration. *Mahony v. Standard Gas Engine Co.* (Cal., 1921), 202 Pac. 146.

The general rule is that when title has passed, if the chattel fails to come up to warranties the buyer's only remedy is an action for damages. *Street v. Blay*, 2 B. & Ad. 456; *Lyon v. Bertram*, 20 How. (U. S.) 149; *Crabtree v. Kile*, 21 Ill. 180; *Hoover v. Sidener*, 98 Ind. 290. But where a warranty is made with intent to defraud, and damage occurs, it is ground for rescission. *Montgomery v. Bucyrus Mach. Works*, 92 U. S. 257. Led by Massachusetts, some jurisdictions hold that in case of a "serious failure of consideration" through breach of warranty the buyer can return the property and be freed from liability for the purchase price. *Bryant v. Isburgh*, 13 Gray 607; *Kuntzman v. Weaver*, 20 Pa. St. 422; *Scranton v. Tilley*, 16 Texas 183; *Ruby Carriage Co. v. Kremer*, 26 Ky. Law Rep. 274. Although in the principal case the language used by the court might indicate a tendency to follow the Massachusetts rule allowing rescission of sale for breach of warranty, the holding on the facts does not give sound support to this doctrine. If the court in fact made an unreported finding that the plaintiff asked that the machines be shipped after he knew of their defect, even the courts following the Massachusetts rule would have held that he thereby waived his right to return the chattel for that breach of warranty. *Aultman-Taylor Co. v. Ridenour*, 96 Iowa 638. If no such finding was made, the plaintiff merely recovered under the doctrine recognized alike by the courts that allow rescission and those that do not, that in the case of a tender of something different than called for by the executory contract of sale the buyer can reject what is tendered and recover any money he has paid in advance. *Pope v. Allis*, 115 U. S. 363.

TAXATION—STOCK DIVIDENDS TAXABLE AS INCOME.—In 1917, the complainant stockholders in the Bronx Company received a "stock dividend" declared against appreciation of capital assets. Held, such "stock dividends"